the early days of the 111th Congress, we have done that.

With the good-will and earnest hard work of Democrats and Republicans alike, we passed a historic wilderness bill, a lands bill that has been called the most significant environmental legislation in a quarter of a century.

We passed the Lilly Ledbetter Fair Pay Act to help employees fight cases of wage discrimination and ensure the principle of equal pay for equal work.

We passed the lands bill on a bipartisan basis. We passed the Lilly Ledbetter Fair Pay Act on a bipartisan basis. We passed a new Children's Health Insurance Program to provide health coverage to millions of low-income families, children of those families. We did that on a bipartisan basis. We passed President Obama's economic recovery plan on a bipartisan basis, a plan to begin creating jobs, investing in our workforce, and providing tax relief to working families.

As I have traveled around the country these last 10 days or so, people said: Well, that was not bipartisan. It was. We had Governors from Florida to California, Republican Governors and Governors in between, being cheerleaders for this legislation. The day before the legislation passed in Florida, conservative Republican Governor Crist introduced President Obama, telling the people of Florida that this legislation was a must-pass for that State.

People said: Well, what happened in the Senate? We got one more Republican vote than we needed. We had Republican input. It was a bipartisan bill. We may not have had a lot of Republican Senators voting for this legislation, but there was Republican input. Senator VOINOVICH from Ohio was involved in this legislation to the last hour that we worked on this. He asked for certain things in this legislation and, frankly, he got them. It was a bipartisan group of Senators, led by, on our side, Senators NELSON and LIEBERMAN, on the Republican side by Senators SNOWE, COLLINS, and SPECTER. So it was bipartisan.

I appreciate the work we have been able to accomplish in this Senate up to this time. We are moving America forward. We are in the early rounds of this fight we have. Without further steps, our economic crisis will grow worse, not better. But there are going to be further steps.

I heard on the radio this morning a tremendous interview about a person who was selling cars. He said, there is no question about it, that the stimulus is going to help him sell cars. I believe that is the case, that all through our economy, we are going to see improvement.

That is why all of us—I repeat, Democrats and Republicans, Members of Congress—all Americans need to pick up that shovel and keep filling our economic ditch with dirt, so we can climb out of it. We and the Obama administration, we as Congress, and our White House, will help millions of American families keep their homes, stem the tide of falling home values for the tens of millions of families who have done nothing wrong yet continue to see their home equity disappear.

We will implement banking reform to begin to unfreeze wheels of credit once again so that families can buy cars, send their children to college, and businesses can manage inventory and hire new workers, all while implementing new oversight, protecting the American people from any future banking crisis.

We will pass a budget, and we will do it soon, that reflects the priorities of America's working families and safeguards every dollar of taxpayer funds. Throughout this recession, American people have been bombarded with bad news, but they remain patient for the tough choices and hard days still to come, and feel good about the progress that has been made.

The people of my State, Nevada, a State hit harder than most any other, understand this turnaround will not happen tomorrow or the next day, but they expect that Congress will put progress over politics in every decision we make.

Yesterday, President Obama said it all when he said: It is the obligation of the majority party to be inclusive. And he is right about that. But he also said: It is the obligation of the minority party to be constructive. Inclusive and constructive, if we keep those words in mind, these critical next weeks of legislating will provide us with an opportunity to again fill this economic ditch that has been dug these last many years and begin building the mountains once again to get us out of there.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

WELCOME BACK

Mr. MCCONNELL. I wanted to briefly welcome everyone back from the Lincoln recess. People had a constructive period of time to interact with their constituents or to do other important business.

Listening carefully to what the majority leader had to say in terms of the way forward, I will be happy to continue to work with him to move us in the direction he wishes to take us in terms of the scheduling of the Senate over the next week or 10 days.

Madam President, we are now cleared to do the consent agreement.

Mr. REID. I appreciate that very much.

ORDER OF PROCEDURE

Mr. MCCONNELL. Madam President, I ask unanimous consent that the cloture motion with respect to the Solis nomination be withdrawn.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCONNELL. I now ask unanimous consent that upon the conclusion of the cloture vote with respect to the motion to proceed to S. 160, the Senate proceed to executive session as previously provided under a previous order and the Senate then debate the nomination of HILDA SOLIS to be the Secretary of Labor until 4:30 today, with the time equally divided and controlled between the leaders or their designees, and that Senator MURRAY be in control of the majority time; further, that at 4:30 p.m. today, the Senate proceed to vote on the confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2009—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 160, which the clerk will report by title.

The legislative clerk read as follows:

A motion to proceed to the bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11 a.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I would first ask unanimous consent, since the leaders have consumed—quite eloquently, I might add—15 minutes, that the hour run from this minute until 11:15 so that both sides have the full hour and that the cloture vote on S. 160 occur at 11:15 a.m.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The majority leader is recognized.

Mr. REID. Madam President, I overlooked a very important part of today. It is my understanding it is the birthday of the manager of this legislation. So all of us in the Senate wish the great Senator from the State of Connecticut happy birthday.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Well, the Senator from the State of Connecticut has

reached an age where he has mixed feelings when people acknowledge his birthday. But I thank the Senator.

Mr. REID. As President Reagan said, the alternative, though——

Mr. LIEBERMAN. The alternative is not good. And I praise the Lord for every day. So I say thank you to Senator REID for his kind words.

Madam President, I rise today, and I am proud to do so along with my friend and colleague, Senator HATCH of Utah, to urge all Senators to vote yes on the motion to proceed to this important legislation, the District of Columbia House Voting Rights Act of 2009. This measure will give the citizens of our Nation's Capital full voting rights in the House of Representatives while effectively adding a fourth congressional seat for the State of Utah.

In 2007, this bill passed overwhelmingly in the House by a vote of 241 to 177 but fell 3 votes short of gaining cloture in the Senate. That failure to proceed here in the Senate, 2 years ago now, left the citizens of the District with the wholly unsought after distinction of being the only residents of a democratically ruled national capital in the world who have no say in how their nation is governed. It is really astounding. It is time to right this injustice, just as this Congress has historically righted so many other voting injustices that stretch back to the very founding of our Nation.

I again thank my friend, Senator ORRIN HATCH, for his principled and steadfast support of this bill. I believe his commitment to join in this historic change puts him up there with other great Republican Senators in recent history, such as Everett Dirksen, who worked with Lyndon Johnson to pass the Voting Rights Act of 1964.

I also thank my colleagues, Senators CARPER, DODD, DURBIN, FEINGOLD, KENNEDY, KERRY, LANDRIEU, LAUTENBERG, LEAHY, LEVIN, MCCASKILL, MIKULSKI, SANDERS, and VOINOVICH, for joining as cosponsors. And, of course, I thank our leader, Senator REID, for bringing this bill to the floor so swiftly in this 111th session. In the Senate, as we all know, one of the greatest gifts you can get is floor time, and the priority Senator REID has placed on this measure speaks volumes of his commitments to fairness, justice, and, in this case, I think civil rights.

Great thanks are due to District Delegate ELEANOR HOLMES NORTON, who has been a tireless champion of full representation for the citizens of the District. In her 10 terms in Congress, ELEANOR HOLMES NORTON has valiantly represented the citizens of the District despite the fact—and I say valiantly and effectively represented the citizens of the District—despite the fact that she has no vote on the House floor.

Madam President, before I go on with the substance of the argument, I would like to ask that you let me know when I have consumed 14 minutes of my time so I can wind it up.

The ACTING PRESIDENT pro tempore. The Chair will so advise.

Mr. LIEBERMAN. I thank the Chair.

I wish to begin by taking my colleagues way back to November 22, 1800. Why that day? Because that was the day that could be considered the official dedication of Washington, DC, as our Nation's Capital: November 22, 1800. On that day, President John Adams, who had only recently moved into the still-unfinished Executive Mansion—it was not known as the White House back then—gave his State of the Union Address to the opening of the second session of the Sixth Congress, which was also moving into its offices in the unfinished Capitol Building.

It is a sweet historical coincidence that today we begin discussion of this bill and tonight President Obama addresses the 111th session of Congress.

President Adams opened his statement with a prayer that this new city ''be the residence of virtue and happiness [and] be forever held in veneration!'' That prayer has only, let's say, imperfectly been realized, but we aspire to it nonetheless.

Adams then called on Congress to be wise stewards of this new city of then roughly 8,000 people.

He said:

> You will consider it as the capital of a great nation advancing with unexampled rapidity in arts, in commerce, in wealth, and in population, and possessing within itself those energies and resources which, if not thrown away or lamentably misdirected, will secure to it a long course of prosperity and self-government.

Beautiful words.

The District did, of course, grow into a robust and thriving capital. Today, with nearly 600,000 residents, the District has a population roughly equal to or, in fact, greater than the States of Alaska, North Dakota, Vermont, and Wyoming. But, sadly, its residents have not been allowed to be full participants in our democracy, have not been allowed to have voting representation in the Congress of the United States.

I want to speak for a moment about some of the fundamental injustices that result from that fact. The people of the District, of course, have been a direct target of a terrorist attack, but they have no vote on how the Federal Government provides for their homeland security.

Men and women of the District have fought bravely in all our wars—well, at least going back to the War of 1812—many, many giving their lives in defense of our country and its freedom. Yet they have no vote on the serious questions of war and peace, of funding conflicts, of supporting veterans when they return home.

The courts have found that Congress has the authority to tax the citizens and businesses of the District. And do they pay taxes? In 2007, residents and businesses of the District paid over $20 billion in Federal taxes, which is more than 19 States, and at the second highest per capita rate of Federal taxation in the Nation. This should be embarrassing; that is, the fact that they still do not have voting representation here should be embarrassing to a nation whose Founders rallied around the Revolutionary slogan: Taxation without representation is tyranny. The District is the only jurisdiction in the country that must seek congressional approval, through the appropriations process, before spending locally generated tax dollars. Yet DC has no vote in the appropriations process.

Finally, if any American living in the 50 States—outside of the District of Columbia, I mean to say—were to move abroad, they would continue to be entitled to full voting representation in Congress—voting by absentee in their last State of residence—regardless of how long they remain out of the country. The only way they can lose that full voting representation here in Congress is if they were either to renounce their citizenship or return to the United States and live in Washington, DC. Now, that just does not make sense.

I am pleased to say that as I hear the arguments of the opponents of this bill, they seem to recognize and concur on the fundamental justice of our cause. Their primary argument against the bill is the question of constitutionality. Opponents cite article I, section 2, of the Constitution, which states that the House ''shall be composed of members chosen . . . by the people of the several states.'' But I would urge my colleagues to read on because in article I, section 8, the Framers gave Congress authority to ''exercise exclusive legislation in all cases whatsoever'' regarding the District. This so-called District clause grants Congress particularly sweeping powers with regard to legislation for the District of Columbia. In fact, our courts have upheld Congress's right to treat the District as a ''State'' for purposes of Federal taxation, Federal court jurisdiction, the right to a jury trial, and interstate commerce, among others.

A broad range of constitutional experts, including very respected conservative constitutional experts such as Judge Ken Starr and former Assistant Attorney General Viet Dinh tell us that Congress's power to provide voting rights to the District lies within this District clause. If Congress has this power, there is no excuse for not deploying it to end the injustice facing the District's many residents with respect to voting representation in Congress.

Madam President, let me give a little more history. There are some question marks lurking in the history of voting rights in the Federal District. In the first 11 years after Maryland and Virginia ceded land for the Capital in 1788 and 1789, respectively, residents of that ceded territory continued to vote in either Maryland or Virginia. They retained this right to vote through congressional legislation. But when the

District was formally established in 1800, Congress was silent on the voting rights for citizens of our Capital City. Frankly, we do not know exactly why this came about. The rights were never explicitly withdrawn. They just never addressed them.

What we all know is that our Nation has always moved to expand and protect the right to vote so that evermore voices could be heard and represented. It is time to do that again. The fact is, in 1800, when the Federal Government first took up residence in the District, as we all know, sadly, not all Americans could vote. Slaves, who made up nearly a sixth of our Nation's population, had no vote and outrageously were counted as a mere three-fifths of a person. Women could not vote, and neither could many men. Most States required you to be a landowner to vote, so many tradesmen, laborers, shop clerks, farmhands, and others who were vital to the Nation's growing economy were denied the franchise.

The Senators of 1800 were chosen by State legislatures, not by popular vote. President Adams, in fact, was about to be defeated in 1800 by his Vice President, Thomas Jefferson, in an election where most of the members of the electoral college were also chosen by State legislatures, not popular vote.

Well, we have, over the decades and centuries since 1800, righted those wrongs. As I heard someone once say: American democracy is on a journey without a final destination. We keep struggling and, thankfully, achieving, generation after generation, the rights that are proclaimed in our Declaration of Independence. So we move beyond those barriers to voting through legislation, constitutional amendments, and court decisions. And our democracy is, of course, stronger for it.

State legislatures began expanding voter rolls beyond just landowners and also provided for the direct election of Presidential electors. Let me just read from——

The ACTING PRESIDENT pro tempore. The Senator has consumed 14 minutes.

Mr. LIEBERMAN. I thank the Chair.

The Supreme Court, in Wesberry v. Sanders, in 1964, ruled that House districts had to be approximately equal in population. That was the so-called ''one man, one vote.'' Again, in each of these cases, our Nation has always had the goal of expanding and protecting the right to vote. And that is what we seek to do today.

I am going to yield now to Senator HATCH, with whom I am proud to cosponsor this legislation. Senator HATCH in this case is not just the distinguished and effective and honorable and intelligent Senator from Utah, he has written one of the great law journal articles which asserts and I think clearly establishes the constitutionality of what we are trying to do today.

So I thank the Chair and I yield the floor to my friend from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Madam President, I compliment my dear friend and distinguished colleague from Connecticut for the leadership he has provided on this issue and for the intelligence he has brought to this issue as well.

Madam President, I rise to support S. 160, the District of Columbia House Voting Rights Act of 2009, which I am cosponsoring with my friend from Connecticut, Senator LIEBERMAN. This bill would give the District of Columbia one seat and Utah another seat in the House of Representatives. I will address three questions about this bill: whether Congress may pass this bill or this legislation, whether Congress should pass it, and whether the Senate bill is how Congress ought to do it. I believe the answer to all three questions is yes.

The first question is whether the Constitution allows Congress to pass this legislation. Congress may certainly increase the size of the House from 435 to 437 Members and give a new seat to Utah which qualifies for one under the formula used in the last 2000 census. The 2010 census will determine whether Utah keeps this seat. The Congress certainly has the legislative authority to grant it to us. The constitutional question is whether Congress may give the other new House seat created by this bill to the District of Columbia which is, of course, not a State. The District did not even exist when the Constitution was drafted to provide that the House be composed of Members chosen by the people of the several States. The constitutional question is whether the word ''States'' prevents Congress from providing a House seat for the District.

We should debate more often and more openly whether the Constitution allows us to do what we do. I studied the constitutional issues raised by the bill before us and published my analysis and conclusions, as the distinguished Senator from Connecticut has noted, in the Harvard Journal on Legislation for everyone's consideration.

I commend it to my colleagues.

Madam President, I wrote in that article and acknowledge here today that there are legitimate arguments on both sides. There are liberal and conservative legal experts on both sides. As we debate this bill, however, I hope those who oppose it on constitutional grounds will do more than just repeat the single word ''States.'' Noting that the District is not a State is a factual observation; it is not a constitutional argument. It is a premise, not a conclusion.

Several considerations led me to conclude that this legislation's constitutional foundation is solid. First, representation and suffrage are the heart of our American system of self-government. This principle is so fundamental that there must be affirmative evidence that America's Founders intended to deny it to Americans living in the District. That evidence simply does not exist.

Secondly, America's Founders demonstrated the opposite intention by their own legislative actions. In 1790, as the distinguished Senator from Connecticut has observed, Congress provided by legislation that Americans living in the land ceded for the District could continue voting in congressional elections. Nobody even suggested that this legislation was unconstitutional, even though the land on which those Americans lived was no more part of a State in 1790 than the District is today. If Congress could do it then, Congress can do it now.

Third, the Constitution explicitly gives Congress legislative authority over the District ''in all cases whatsoever.'' This authority has been called sweeping, plenary, and extraordinary by the courts and surpasses the authority a State legislature has over its own State.

Fourth, courts have held for more than two centuries either that constitutional provisions framed in terms of States can be applied to the District or that Congress can legislatively accomplish for the District what the Constitution accomplishes for States. Congress, for example, has authority to regulate commerce among the several States. The Supreme Court held in 1899 that this applies to the District of Columbia.

The original Constitution provided that direct taxes shall be apportioned among the several States. The Supreme Court held in 1805 that Congress's legislative authority over the District allows taxation of the District. The Constitution provides that Federal courts may review lawsuits between citizens of different States. The Supreme Court held in 1805 that Congress can legislatively extend this to the District even though the Constitution does not.

In 2000, the Supreme Court affirmed a lower court decision holding that while the Constitution does not provide congressional representation for the District, that goal can be pursued in other venues including, the Court said, ''the political process.''

Those who argue the word ''States'' in the Constitution cannot include the District must believe that all of these court decisions were wrong. They must believe that District commerce cannot be regulated, that District residents cannot be taxed, cannot sue in Federal court, and have no right to a speedy trial. They are entitled to believe that, but they should say so and defend their position.

Fifth, maintaining the District as a jurisdiction separate from State control in no way requires disenfranchising its residents. America's Founders wanted the Capital to be free from State control, and I support keeping it that way. I oppose statehood for the District of Columbia, and I think most people in this body do, but giving the District a House seat so that

its residents can participate in the process of making the laws they must obey in no way changes either the District's political status or Congress's legislative authority over the District.

These are some of the considerations leading me to conclude that the Constitution allows Congress legislatively to provide a House seat for the District of Columbia.

The next question is should Congress do so or whether Congress should do so. I believe it should. Representation and suffrage are essential to our American system of self-government. The Supreme Court has said no right is more precious in a free country than having a voice in the election of those who govern us. Congress provides by legislation for the millions of Americans living overseas to exercise that right by voting in congressional elections. They obviously do not live in a State. They do not even live in America.

Do those who believe the word ''States'' in the Constitution precludes representation for Americans living in the District, do they believe that it also precludes representation for Americans living outside the country altogether? Of course not.

I wish to emphasize the legislation before us would restore congressional representation that Americans living in the District once enjoyed. After taking up residence in 1800, Congress failed to continue by Federal law the voting rights these Americans had previously enjoyed, by Congress's permission, under State law. One member of the District City Council, Augustus Woodward, wrote in 1801 that District residents are still part of the people of the United States and that ''it is violating an original principle of Republicanism to deny that all who are governed by laws ought to participate in the formulation of them.''

I continue to believe what I stated more than 30 years ago on the Senate floor that Americans living in the District should enjoy all the privileges of citizens, including voting rights.

If Congress may and should provide a House seat for the District, the remaining question is how to do it. I believe the bill before us, rather than the House version, is the best vehicle for accomplishing that goal. First, it disclaims Senate representation for the District both explicitly and implicitly. It explicitly does so in language that the Senator from Maine, Ms. COLLINS, first introduced during the committee markup in the 110th Congress.

The bill States:

> The District of Columbia shall not be considered a State for purposes of representation in the U.S. Senate.

But the bill also implicitly disclaims Senate representation by treating the District as a congressional district rather than as a State even for purposes of House representation. This avoids even a rhetorical parallel to States that have only one House Member.

I wish to firmly repeat my continuing opposition to District representation in the Senate. I opposed the constitutional amendment in 1978 that would have given the District both House and Senate representation. The two Houses of Congress are designed differently: the House to represent population and the Senate to represent the States. The House is considered the people's body, the Senate the State's body. The 17th amendment changed how Senators are elected but did not change the Senate itself or its place in the design of Congress.

In addition, as I argued in 1978, adding a nonstate jurisdiction to the Senate would disrupt the equal suffrage the Constitution guarantees to the States in this body. Secondly, the Senate bill provides for expedited judicial review. The House bill does not. As I do, my colleagues take the Constitution seriously, and this provision will help ensure that, if necessary, the courts can decide the legal issues.

Third, the Senate bill allows Utah to elect its additional House Member after drawing new congressional district lines. The House bill would improperly force Utah to elect an additional Member at Large. This would create two strange situations. It would mean one House Member from Utah would have three times as many constituents as the other, and it would mean Utahans would each have two House Members, twice as many as Americans living in any other State. Utah has already demonstrated that it is willing and able to draw fair and reasonable lines to elect a fourth House Member, and Congress has no business forcing Utah to do it any other way.

Let me close by saying there are many differences between Utah and the District, to be sure, but their residents deserve to be properly represented in our National Legislature. I do not believe that representation and suffrage, the heart of self-government, should be provided based on how Americans will exercise this most precious right or which party they will likely support. I believe Congress may and should provide for that representation and ought to do so by passing the bill before us today, and I hope we will.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

Mr. KYL. Madam President, obviously, the principal argument that must be made against this bill is its blatant unconstitutionality. Article I of the Constitution clearly and expressly provides that representation in the House of Representatives shall be apportioned among the several States. The meaning of this language is not ambiguous. Only States may be represented in the House of Representatives—not territories, not districts, or other Federal possessions. It is hard to craft a colorable argument that this bill is constitutional, especially in view of court decisions confirming what I just said.

But let me set aside for a moment the constitutional argument and talk about the idea behind the bill, which is that it is wrong for residents of the District not to have some representation in the House of Representatives. The argument is that everyone is entitled to representation in Congress and that the District currently lacks such a representative—in other words, that the District runs afoul of the principle of ''no taxation without representation'' as the jurisdiction's current license plates complain. Of course, there is a representative, but that representative is a nonvoting representative.

The argument, however, is wrong. The District does not lack representation in the Congress or need a voting representative to, for example, provide funding for the District of Columbia. It actually already has representatives in Congress: 100 Senators and 435 House Members, all of whom, under the Constitution itself, have the jurisdiction and, indeed, the obligation to provide for the general welfare of the residents of the District of Columbia. All of these Members work in the District. Most of them live close to, if not in, the District. Their presence here and the oversight that Congress provides and the funding Congress provides effectively ensures that the District is adequately cared for by the Congress.

If anyone here today doubts that Congress has been anything less than generous toward the District, I would ask them to consider the latest data from the Tax Foundation on the amount of tax dollars each State and the District pay to the Federal Government and the amount each receives in Federal spending in return.

Let's start with those States for whom the redistribution of America's wealth via the Federal Government is not such a good deal. Going down the rankings to No. 47 of per capita dollars received to dollars taxed, we have the State of New Hampshire. Its residents paid an average of $8,162 of taxes to the Federal Government but received a per capita average of only $6,386 in Federal spending. This earned New Hampshire a return of only 71 cents for each dollar paid in Federal taxes.

Next on the list is the State of Connecticut. Its residents paid an average of $11,522 in Federal taxes but saw only $8,795 per capita in Federal spending in return, which means every dollar in Federal taxes saw a return of only 69 cents in Federal spending.

At No. 49 on the scale of returns is the State of Nevada. Its residents saw only a 65-cent return on every dollar paid in Federal taxes. On average, every Nevadan paid $8,417 in Federal taxes, but the State received only $5,889 per capita in Federal spending.

Finally, rock bottom on the list of beneficiaries of Federal largess is the State of New Jersey. Its residents paid a total of $86 billion in taxes to the Federal Government. That comes to $9,902 paid to the United States by every man, woman, and child in the State. Yet the State saw only $6,740 in Federal spending—a return of only 61

cents of Federal return for every dollar New Jersey residents send to Washington.

Neither New Jersey nor any of these other States pay the most in total taxes to the Federal Government. That honor goes to California, whose citizens paid a total of $289 billion in taxes to the Federal Government. That comes out to $8,028 for every man, woman, and child in California. But in return, the State only received $6,709 per capita in Federal spending—a return of only 78 cents for each dollar in Federal taxes paid.

There is also the other end of the scale—the States that received more in Federal spending than they pay in Federal taxes. Which are they? Let's start with West Virginia, which ranked fifth. Its residents paid an average of $4,861 in taxes and received $8,872 per capita in Federal spending—a return of $1.76 for every dollar in taxes.

No. 2 on the list is Mississippi, which saw a return of $2.03 for every $1 paid in Federal taxes.

At the very top is New Mexico, whose residents paid an average of $5,153 in Federal taxes but saw a per capita return of $10,733 in Federal spending or $2.03 for every dollar paid in Federal taxes. Mississippi and New Mexico, with two Senators each, and with four and three Congressmen respectively, made out better than all other States in terms of per capita Federal spending that Congress delivered to these States, as compared to the amounts they pay in taxes. No State got a better deal than Mississippi and New Mexico, which saw a per capita return of over $2 for every dollar paid. So they did very well by any measurement.

There is one jurisdiction that does better than even these States and that is—as you might guess—the District of Columbia. It far exceeded the $2 return seen by even the No. 1 and 2 States on the list of Federal beneficiaries. For the last year for which data is available, District residents paid an average of $11,582 in Federal taxes. But in return, the District of Columbia received over $65,109 in per capita Federal spending. This represents a return that is more than twice as high as that received by the No. 1 and 2 States, a return of 55 cents for every $1 that its residents paid in Federal taxes. The District did over six times better than even first-ranked New Mexico, at $65,109. This represents a 555-percent return on the District's investment in Federal taxes—generous by any standard, even accounting for the fact that much of the money is for the Federal area for buildings and other projects within the District.

The numbers I have been citing have not abated in recent times. Most recently, on February 14, in the Federal stimulus bill, the District's nonvoting Delegate, Holmes-Norton, issued a press release bragging about the District's recent take. She gave a press briefing in which, according to news accounts:

> . . . gave a detailed account of the $620 million of benefits for the District of Columbia in the American Recovery and Reinvestment Plan of 2009 at a press conference this morning. The funds in the stimulus package are expected to generate 12,000 jobs and an even larger number of jobs at the Department of Homeland Security headquarters in Ward 8, which will receive $650 million, even more than expected, to build the first of five buildings at the DHS compound, a project expected to generate 38,000 jobs in the area. The Congresswoman's work to make sure that in every category DC was treated as a State paid off handsomely for the District, which did better in funds received than seven States. Funds to repair federal structures will be spent disproportionately in DC because so many Federal buildings are located here.

One would expect DC would receive more Federal money because of the Federal enclave that exists in the District. But the point of the representative is to note that all of that benefits the residents of the District as well, unlike that money that goes to the States. So straight from the nonvoting District's representative, you have the fact that the Congress has clearly been very generous toward the District. It is in no way underrepresented and certainly doesn't deserve to have an additional Member of Congress, whose goal it would be to expand the District's share of Federal spending.

Even if giving the District a dedicated representative in the House were sound policy, let me return to the argument about the constitutionality. This, the proponents appreciate, is the soft underbelly of this legislation. There are arguments they adduce to support its constitutionality. I submit they are weak and will not succeed in court. I appreciate the fact that the sponsors of the bill support the necessity of an expedited hearing to get the legislation heard and a decision made by the courts as to its constitutionality. That is the least we would owe the representatives of the District, as well as the other citizens of the country.

Congress has long recognized we can only grant District residents the ability to participate in Federal elections through constitutional amendment. Prior to 1961, for example, District residents were not permitted to vote in Presidential elections. Article II, section 1 of the Constitution provides that the electors from each State should be comprised of the number equal to the State's combined congressional delegation. In the face of this express constitutional language, Congress recognized that a change to the law would require a change to the Constitution itself. That is why, when we granted DC residents the right to participate in Presidential elections, we went about it the right way—by passing the 23rd amendment to the Constitution.

Just as article II of the Constitution, which deals with the Presidency, limited the right to appoint Presidential electors to the State, article I, which deals with Congress, clearly and repeatedly limits representation in the House and Senate to the State. Article I says the House ''shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.'' Obviously, that doesn't apply to the District of Columbia. It requires that each representative, ''when elected, be an inhabitant of that state in which he was chosen.'' It mandates that ''each state . . . have at least one Representative,'' and it provides that ''when vacancies happen in the Representation for any state, the executive authority thereof shall issue writs of election to fill such vacancies.'' Again, it could not have application to the DC.

The import of these provisions was recognized by the legal scholar, Jonathan Turley, in a law review article published last year. In it he concludes:

> It would be ridiculous to suggest that the delegates to the Constitutional Convention or ratification conventions would have worked out such specific and exacting rules for the composition of Congress, only to give the majority of Congress the right to create a new form of voting members from federal enclaves like the District. It would have constituted the realization of the worst fears for many delegates, particularly Anti-Federalists, to have an open-ended ability of the majority to manipulate the rolls of Congress and to use areas under the exclusive control of the Federal Government as the source for new voting members.

Indeed, congressional Democrats, in 1978—and Republicans as well—recognized that giving the District of Columbia a dedicated House Member would require amending the Constitution. That year, Congress passed an amendment giving District residents a voting seat in the House. When the House Judiciary Committee, under the leadership of Chairman Peter Rodino, reported out the amendment, the accompanying report recognized that ''if the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice.''

I am certainly not alone in concluding that this bill, though well-intentioned, violates the plain language of the Constitution. The very court that will hear challenges to this bill under its expedited judicial review provision has already ruled that District residents do not have a constitutional right to congressional representation. In Adams v. Clinton, decided in 2000, a three-judge panel of the Federal District Court for the District of Columbia had concluded that the Constitution plainly limited congressional representation to the States. Here is what the court said:

> The overlapping and interconnected use of the term ''state'' in the relevant provisions of article I, the historical evidence of contemporary understandings, and the opinions of our judicial forebears, all reinforce how deeply Congressional representation is tied to the structure of statehood. . . . There is simply no evidence that the Framers intended that not only citizens of the States,

but unspecified others as well, would share in the congressional franchise.

The District residents who brought suit in Adams v. Clinton appealed their case all the way to the U.S. Supreme Court, and the Supreme Court allowed the trial court's ruling to stand.

The Senate should not be passing legislation that we believe is unconstitutional. We should not pass the buck to the Federal courts because we feel good about a particular case to be made and want to express our feelings about it, in the firm judgment that the court will save us from ourselves and declare our action unconstitutional. When we neglect our duty to the Constitution, we fail to uphold the oath that we take as Senators to support and defend our great founding documents.

My friends in the Senate who support this legislation rely essentially on two arguments, neither of which, I submit, outweighs the clear mandate in article II. First, they claim that another provision in the Constitution, the so-called District clause, allows Congress to essentially grant any sort of legislation relating to the District of Columbia, including even legislation to give DC residents a voting House Member. This clause doesn't do that. What it does is permit Congress to pass laws to provide for the general welfare of District residents. The bill, however, does not propose to provide for the welfare of District residents; it seeks to alter the fundamental composition of the House of Representatives.

This clause not only does not allow the Congress to change the law without a constitutional amendment; it is, in effect, a logical extension of the fact that the District requires some separate entity to make the laws and provide for its needs, and that, of course, as identified in the Constitution, is the Congress. So, far from supporting the case, it actually confirms the argument that the District, not being a State, is not entitled to representation as a State.

Second, proponents of the bill correctly point out that there are certain instances in the Constitution where references to citizens of the States has been interpreted to include residents of the District of Columbia. Many of these cases, though, involve individual rights, and it is obvious that DC residents do not lose their rights as citizens of the United States by choosing to live in the District. For example, they retain the right to trial by jury, and they may bring civil suits in Federal court against citizens of other States and so on. The bill is not a bill about individual rights, such as free speech, the right to own firearms or to due process of law. It is a bill about the makeup of House of Representatives. It is about the delicate balance our constitutional Framers struck in affording representation to the States in the House and the Senate, and it is about the fundamental structure of our Government.

Finally, there is actually nothing standing in the way of full representation in the Congress for residents of the District. In fact, there have been previous offers, and there will be another offer in the context of the debate on this bill to allow the residents of the District of Columbia to vote as a congressional district of the State of Maryland. The retrocession amendment would also allow representation in the Senate as well. This is essentially what residents of Virginia had when the land was retroceded to the State of Virginia that had originally been carved out as part of the 10-mile square of the District of Columbia. Up to now, the residents of the District have not seen fit to take advantage of this offer to have full representation in the Congress as residents of the State of Maryland. But they will have that opportunity again when an amendment is proposed in the context of this legislation.

The bottom line is this: The District of Columbia residents do not suffer from a lack of representation in terms of the general welfare of the District. The Congress has been enormously generous and has ceded jurisdiction to the city of the District of Columbia and provided funding and other legislation to govern the District as called for under article I.

Secondly, the Constitution of the United States could not be clearer about the fact that representation is limited to the States of the Union.

The District of Columbia being a Federal enclave, not being a State, therefore, is not entitled to congressional representation, so the Federal District Court of the District of Columbia has held. The Supreme Court has declined to review that ruling, allowing it to stand. It is my firm belief when this legislation, if it is passed, is challenged, it will, in fact, be declared unconstitutional. Because of that, it seems to me those of us in the Congress who respect the Constitution and this argument should oppose the legislation on the grounds that we should never pass legislation that we believe to be unconstitutional in the hopes that the Congress will be overruled by the Court and the Court will save us from the action we take.

I reserve the remainder of the time on my side and see if anybody else on the other side wishes to speak.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mr. KENNEDY. Madam President, our vote today affects one of the core issues of our democracy—the right to vote. It is a fundamental American principle that every citizen should have the right to vote and to participate in our democracy. Yet the nearly 600,000 residents of the District of Columbia have no voting representative in Congress. Americans give up their right to vote for Members of Congress when they move to the Nation's Capital. It is long past time for us to finally correct this basic wrong, and I commend Senators LIEBERMAN and HATCH for their strong leadership on this legislation.

The basic injustice is clear. Already this year, District of Columbia residents have paid over $500 million in Federal taxes. Annually, they have the second highest per capita tax burden in the Nation. But they are denied the basic right of congressional representation taken for granted by other taxpaying Americans.

DC residents have fought and died to protect our Nation in every war in which America has participated since our Nation was founded. Since World War I, over 192,000 residents of the District of Columbia have served in our Armed Forces, and more than 1,600 DC residents have given their lives in service to our Nation. Since the start of the current wars in Iraq and Afghanistan, nearly 3,000 DC residents have been deployed in those countries and dozens of DC residents have been wounded or killed. There is no reason to deny representation in Congress to these patriotic veterans.

I have long been a strong supporter of DC representation in Congress. In 1978, the District's nonvoting Delegate in the House, Walter Fauntroy, our Senate majority leader, ROBERT BYRD, and I worked with many others to pass a constitutional amendment to extend full voting rights to Americans living in the Nation's Capital. Congress passed that constitutional amendment, but too few States ratified it, and it never took effect.

Although I strongly supported that constitutional amendment, I do not believe that a constitutional amendment is the only valid option. In 1978, we were following the precedent of the 23rd amendment, which was approved by Congress in June 1960 and was ratified by the States in March 1961 and which gave citizens of the District of Columbia the right to vote in Presidential elections. At the time, there was little opposition in the House to the amendment giving the District congressional representation, and the Republican leaders in the Senate actively supported it. It passed the House by a vote of 289 to 127. The Senate passed it by a vote of 67 to 32, narrowly above the two-thirds majority required for a constitutional amendment. Needless to say, we were deeply disappointed by the failure of the States to ratify the amendment, and that failure planted the seeds for the serious consideration now of the statutory option for achieving the goal.

As the House and Senate hearings on the current bill make abundantly clear, the Constitution's District clause provides a valid means for acting by statute to grant citizens of the District of Columbia the right to vote in the House of Representatives. In testimony on the bill, numerous constitutional scholars have explained that article I, section 8 of the Constitution grants Congress the authority ''to exercise exclusive Legislation, in all Cases whatsoever, over'' the District of

Columbia. The Supreme Court has ruled that Congress's exclusive authority over the District of Columbia is broad and ''national in the highest sense.'' *O'Donoghue* v. *United States*, 289 U.S. 516, 539–40, 1933.

Madam President, at this very moment as the Senate debates whether DC citizens deserve a vote in Congress, many brave Americans born in the District of Columbia are fighting for democracy in Iraq. If we are for democracy in Iraq and Afghanistan, we cannot oppose democracy in the District of Columbia. If we believe in the principles of ''one person, one vote'' and government by the consent of the governed on which our Nation was founded, we must support this bill.

I urge my colleagues to vote for cloture on the motion to proceed to this long overdue legislation and to support final passage of the bill so that we can finally correct this historic wrong.●

Mr. BAUCUS. Madam President, I rise today to discuss the District of Columbia House Voting Rights Act.

This legislation, if passed, is an unprecedented action. For the first time in history, Congress will grant the District of Columbia a voting seat in the U.S. House of Representatives. For decades, citizens of the District of Columbia have fought for their right to vote in Congress.

But this legislation sets precedence in another way. The bill we discuss today does not provide merely one additional seat in the House of Representatives. It adds two. The second seat is given to Utah.

For the first time in history, Congress will specifically set out in legislation an additional seat in Congress for an existing State.

This measure is included in this bill not because of the belief that the people of Utah are in the same position as those living in the District of Columbia. Instead, this additional seat is included in the legislation in an effort to balance the supposed political makeup of the two new districts—one Republican and one Democratic.

I do not support the reasons behind this second additional seat, and thus, I cannot vote in support of this bill.

The State of Utah failed to obtain an additional seat in the last apportionment by a narrow margin. Many in the State felt the reapportionment was unfair. In fact, the State of Utah took its argument all the way to the U.S. Supreme Court but lost that battle in court.

But Utah is not unique. The people of the State of Montana can relate. Mr. President, I would like to share with you today Montana's story.

In the 1910 reapportionment, with a population of 243,000, Montana gained an additional seat in the House of Representatives, for a total of 2 seats. But 80 years later following the 1990 census, 8 States gained a total of 19 additional seats in the House of Representatives, and 13 States lost an equal number.

Montana was one of those States. With a population of over 800,000, Montana lost 1 seat, reducing its voice in the House in half. Losing this seat established the State of Montana as the largest single congressional district in the United States.

In 1990, the average size of the 435 congressional districts was 572,466 people. From 1910 to 1990, Montana's population increased by 563,000 people roughly the size of a modern congressional district.

Yet in 1990, Montana lost a congressional seat. In fact, if Montana had retained its two districts, each would have been closer to the ideal, average district size than the single congressional district.

The State of Montana—just like Utah—sued the U.S. Department of Commerce, asserting the reapportionment was unconstitutional. A three-judge district court panel ruled in favor of the State of Montana. The district court held that the principle of equal representation for equal number of people as applied to State districting by the U.S. Supreme Court in 1964, should also be applied to the apportionment of seats among the States.

The U.S. Government appealed the decision. On March 2, 1992, the U.S. Supreme Court held oral arguments on the case. I attended the oral arguments, sitting behind then-attorney general for Montana Marc Racicot, as he argued on behalf of the State of Montana.

Unfortunately, the Supreme Court reversed the district court decision, upholding the reapportionment and Montana's lost seat.

The people of Montana accepted that fate and patiently waited for the next reapportionment, hoping to obtain the second seat Montana lost 10 years earlier. Early estimates were promising. The 1995 projection for 2000 census estimated that Montana would regain its second seat.

However, Montana came up short in the 2000 census. Though Montana's population grew by 12.9 percent, nearly matching the national rate, Montana's congressional representation remained the same. In fact, the State came up only 8,000 people short of the number needed, just nine-tenths of 1 percent of the State's population. Only Utah missed gaining another seat with a narrower margin.

Marc Racicot, then-Governor of Montana in 2000, said the unfairness of having such a large district was obvious. The ability of one person to represent over 900,000 is substantially strained, he said.

Today, the State of Montana remains the single most populated congressional district in the United States, at a population over 947,000—far larger than the average population per district of 625,000.

But mere population doesn't tell the whole story.

The State of Montana is the fourth largest State in the country. With over 145,000 square miles, Montana is bigger than the District of Columbia, Maryland, Virginia, and North Carolina combined. It is larger than all of New England.

Though Montana may not be the biggest congressional district based on land mass—Alaska has us beat—Montana's population is spread out more evenly across the State's vast area. Billings, Montana's largest ''city,'' only just recently surpassed 100,000 people.

In Montana, we don't distinguish between rural and nonrural. Rural is a matter of degree, as it compares to an increasingly more urban and suburban Nation.

This bill should be about the District of Columbia and the merits of awarding the taxpayers of the District their right to vote in Congress. Indeed, the bill itself is called the District of Columbia House Voting Rights Act. But to strike a political deal to maintain the status quo in the Halls of Congress is something I cannot support.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I say to my friend from Arizona, Mr. KYL, that Senator DURBIN, the senior Senator from Illinois, is on his way to speak for 5 minutes. Senator KYL has raised some important constitutional questions. I spoke to them briefly in my opening statement. Senator HATCH spoke at more length. It will undoubtedly consume a great deal of discussion, assuming we invoke cloture when we vote in approximately 15 minutes. I will wait to respond until then and remind my colleagues, of course, that on the constitutional question, I think it is at least arguable—I believe it is more than arguable. I believe the proposal before the Senate today is clearly constitutional and has been acknowledged as such by a wide array of experts—left, center, right—but that will be determined by the Chamber.

I remind my colleagues what we are voting on today is whether we are going to take up this bill. The basic reality is that a grave injustice has been done to the residents of this District. Mr. President, 600,000 Americans do not have voting representation in Congress just because they happen to live in our Nation's Capital, the only democracy in the world where that is so. It is an embarrassment. I think my friends who oppose this bill agree; we just disagree on the constitutionality of this proposal.

I ask everyone, please vote for cloture. Let's at least give the residents of the District their day in the Senate and hopefully we will go on to enact this legislation. But this bill certainly at least deserves to be debated.

I reserve the remainder of the time on our side.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I understand the time on the Democratic side has expired, but when Senator DURBIN arrives, I will yield him Republican time

to make his statement, if he would like to do that.

Mr. LIEBERMAN. I thank my friend for his generosity.

Mr. KYL. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, it is my understanding there is a vote scheduled for 11:15 a.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. I don't know if any time has been allotted between now and 11:15.

Mr. LIEBERMAN. Mr. President, I say to the Senator from Illinois, we actually used all our time. Senator KYL graciously offered the Senator from Illinois the final 5 minutes of their time.

The PRESIDING OFFICER. The Senator from Connecticut does have 1 minute remaining.

Mr. LIEBERMAN. One minute of mine and four of his.

Mr. DURBIN. I thank my gracious colleagues.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, the Senate is debating whether to have a vote this week on a very important bill called the District of Columbia House Voting Rights Act of 2009. This bill would finally give voting rights to the people of the District of Columbia after 200 years. I am a cosponsor and supporter of this measure; I have been since the earlier days of my service in the House.

I find it unimaginable in modern America that 600,000 Americans have no voice and no vote in the U.S. Congress. It is a fact. It reflects decisions made long ago about whether the District of Columbia and its residents would be represented in Congress. There is a good reason they should be.

The right to vote is one of the most fundamental in the United States. Over a century ago, the Supreme Court called the right to vote ''a fundamental political right'' and a right that is ''preservative of all rights.''

It is unconscionable that we would ask the men and women in the District of Columbia to fight and risk their lives so the people of Iraq and Afghanistan have the right to vote, but we do not extend that same right to the citizens of the District of Columbia.

Seven DC residents have died on the battlefields of Iraq and Afghanistan: SPC Darryl Dent, LCpl Greg MacDonald, MAJ Kevin Shea, LTC Paul Kimbrough, CPT Darrell Lewis, SGT Randy Lewis Johnson, Jr., and SPC Keisha Marie Morgan. They were unable to fully participate in democracy in the town from which they came.

Opponents of the DC voting rights bill say they have constitutional concerns. They point to language in the Constitution that says the House of Representatives will be composed of Members chosen by ''the people of the several States.'' They argue that the District of Columbia is a district, not a State.

I do not think that is a strong argument. Our Federal judiciary has long treated the District of Columbia as a State for many purposes. For example, DC residents pay Federal income tax, serve on Federal juries, and register for Selective Service. Why should the right to vote be different?

Do opponents of DC voting rights believe that residents of America's Capital City should bear the full responsibilities of citizenship but not deserve the full rights of citizenship?

It is not just Democrats who believe the DC voting bill is constitutional. Many prominent Republicans agree. I am pleased that a half dozen of my Senate Republican colleagues have voted in the past for this bill. Listen to the words of conservative constitutional scholar Kenneth Starr. It is not often I have quoted him. He is not someone with whom I frequently see eye to eye. He coauthored a Washington Post op-ed and said:

> There is nothing in our Constitution's history or its fundamental principles suggesting that the Framers intended to deny the precious right to vote to those who live in the capital of the great democracy they founded.

I conclude by saying that I have served in the Senate now for a little over 12 years and the House 14 years before. I have seen the Congress treat the District of Columbia many times in a way that I found unacceptable, sometimes embarrassing. There are many Members of Congress whose obvious lifelong ambition is to serve as the mayor of a city—they cannot wait to be the Mayor of the District of Columbia—by the laws we pass on the floor of the House and Senate. We have denied to these people a voice in that process. We have made basic and fundamental decisions for the residents of this city which many of us never would have imposed on the city we represent. But they have been used as a laboratory for political debate and political experiment.

It is time that the people of this great Capital City have a voice in the Halls of Congress, at least in the House of Representatives. This bill is an important step forward in extending the opportunity for participation in our democracy and the opportunity for freedom. In this 21st century, we can do no less. I hope the new day, the change we are seeing in America, will be seen in the District of Columbia soon when they are given the right to have a voice in the Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, if I may, before the vote goes off, I simply wish to note that in addition to the names I indicated in my opening statement who are cosponsors of S. 160, Senator SPECTER of Pennsylvania and Senator SCHUMER of New York have also joined.

And on behalf of my colleagues, I would note the presence in the Chamber and welcome the Honorable Mayor of the District of Columbia, Adrian Fenty, and the honorable and eloquent and aggrieved Delegate from the District, ELEANOR HOLMES NORTON.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 160, the District of Columbia House Voting Rights Act of 2009.

Harry Reid, Joseph I. Lieberman, Richard Durbin, Charles E. Schumer, Christopher J. Dodd, Benjamin L. Cardin, Edward E. Kaufman, Mark Udall, Daniel K. Inouye, Michael F. Bennet, Mary L. Landrieu, Mark L. Pryor, Sheldon Whitehouse, Roland W. Burris, Patty Murray, Bernard Sanders, Thomas R. Carper.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 160, the District of Columbia House Voting Rights Act of 2009, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from South Carolina (Mr. DEMINT).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 62, nays 34, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—62

Akaka	Cantwell	Dorgan
Bayh	Cardin	Durbin
Begich	Carper	Feingold
Bennet	Casey	Feinstein
Bingaman	Cochran	Gillibrand
Boxer	Collins	Hagan
Brown	Conrad	Hatch
Burris	Dodd	Inouye

Johnson	Menendez	Shaheen
Kaufman	Merkley	Snowe
Kerry	Mikulski	Specter
Klobuchar	Murkowski	Stabenow
Kohl	Murray	Tester
Landrieu	Nelson (FL)	Udall (CO)
Lautenberg	Nelson (NE)	Udall (NM)
Leahy	Pryor	Voinovich
Levin	Reed	Warner
Lieberman	Reid	Webb
Lincoln	Rockefeller	Whitehouse
Lugar	Sanders	Wyden
McCaskill	Schumer	

NAYS—34

Alexander	Cornyn	Martinez
Barrasso	Crapo	McCain
Baucus	Ensign	McConnell
Bennett	Enzi	Risch
Bond	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hutchison	Thune
Byrd	Inhofe	Vitter
Chambliss	Isakson	Wicker
Coburn	Johanns	
Corker	Kyl	

NOT VOTING—3

DeMint	Harkin	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

The Senate proceeded to consider the bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''District of Columbia House Voting Rights Act of 2009''.

SEC. 2. TREATMENT OF DISTRICT OF COLUMBIA AS CONGRESSIONAL DISTRICT.

(a) CONGRESSIONAL DISTRICT AND NO SENATE REPRESENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the District of Columbia shall be considered a congressional district for purposes of representation in the House of Representatives.

(2) NO REPRESENTATION PROVIDED IN SENATE.—The District of Columbia shall not be considered a State for purposes of representation in the United States Senate.

(b) CONFORMING AMENDMENTS RELATING TO APPORTIONMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.—

(1) INCLUSION OF SINGLE DISTRICT OF COLUMBIA MEMBER IN REAPPORTIONMENT OF MEMBERS AMONG STATES.—Section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), is amended by adding at the end the following new subsection:

''(d) This section shall apply with respect to the District of Columbia in the same manner as this section applies to a State, except that the District of Columbia may not receive more than one Member under any reapportionment of Members.''.

(2) CLARIFICATION OF DETERMINATION OF NUMBER OF PRESIDENTIAL ELECTORS ON BASIS OF 23RD AMENDMENT.—Section 3 of title 3, United States Code, is amended by striking ''come into office;'' and inserting ''come into office (subject to the twenty-third article of amendment to the Constitution of the United States in the case of the District of Columbia);''.

SEC. 3. INCREASE IN MEMBERSHIP OF HOUSE OF REPRESENTATIVES.

(a) PERMANENT INCREASE IN NUMBER OF MEMBERS.—Effective with respect to the 112th Congress, or the first Congress sworn in after the implementation of this Act, and each succeeding Congress, the House of Representatives shall be composed of 437 Members, including the Member representing the District of Columbia pursuant to section 2(a).

(b) REAPPORTIONMENT OF MEMBERS RESULTING FROM INCREASE.—

(1) IN GENERAL.—Section 22(a) of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a(a)), is amended by striking ''the then existing number of Representatives'' and inserting ''the number of Representatives established with respect to the 112th Congress, or the first Congress sworn in after implementation of the District of Columbia House Voting Rights Act of 2009''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the regular decennial census conducted for 2010 and each subsequent regular decennial census.

(c) TRANSMITTAL OF REVISED APPORTIONMENT INFORMATION BY PRESIDENT.—

(1) STATEMENT OF APPORTIONMENT BY PRESIDENT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress a revised version of the most recent statement of apportionment submitted under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), to take into account this Act and the amendments made by this Act. The statement shall reflect that the District of Columbia is entitled to one Representative and shall identify the other State entitled to one representative under this section. Pursuant to section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, and the regular decennial census conducted for 2000, the State entitled to the one additional representative is Utah.

(2) REPORT BY CLERK.—Not later than 15 calendar days after receiving the revised version of the statement of apportionment under paragraph (1), the Clerk of the House of Representatives shall submit a report to the Speaker of the House of Representatives indicating that the District of Columbia is entitled to one Representative and identifying the State which is entitled to one additional Representative pursuant to this section. Pursuant to section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, and the regular decennial census conducted for 2000, the State entitled to the one additional representative is Utah.

(3) ADDITIONAL STATEMENTS AND REPORTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and following the revised statement of apportionment and subsequent report under paragraphs (1) and (2), the Statement of Apportionment by the President and subsequent reports by the Clerk of the House of Representatives shall continue to be issued at the intervals and pursuant to the methodology specified under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act.

(B) FAILURE TO COMPLETE.—In the event that the revised statement of apportionment and subsequent report under paragraphs (1) and (2) can not be completed prior to the issuance of the regular statement of apportionment and subsequent report under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, the President and Clerk may disregard paragraphs (1) and (2).

SEC. 4. UTAH REDISTRICTING PLAN.

The general election for the additional Representative to which the State of Utah is entitled for the 112th Congress, pursuant to section 3(c), shall be elected pursuant to a redistricting plan enacted by the State, such as the plan the State of Utah signed into law on December 5, 2006, which—

(1) revises the boundaries of congressional districts in the State to take into account the additional Representative to which the State is entitled under section 3; and

(2) remains in effect until the taking effect of the first reapportionment occurring after the regular decennial census conducted for 2010.

SEC. 5. EFFECTIVE DATE.

The additional Representative other than the Representative from the District of Columbia, pursuant to section 3(c), and the Representative from the District of Columbia shall be sworn in and seated as Members of the House of Representatives on the same date as other Members of the 112th Congress or the first Congress sworn in after implementation of this Act.

SEC. 6. CONFORMING AMENDMENTS.

(a) REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.—

(1) REPEAL OF OFFICE.—

(A) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 91–405; sections 1–401 and 1–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(B) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(2) CONFORMING AMENDMENTS TO DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended as follows:

(A) In section 1 (sec. 1–1001.01, D.C. Official Code), by striking ''the Delegate to the House of Representatives,'' and inserting ''the Representative in Congress,''.

(B) In section 2 (sec. 1–1001.02, D.C. Official Code)—

(i) by striking paragraph (6); and

(ii) in paragraph (13), by striking ''the Delegate to Congress for the District of Columbia,'' and inserting ''the Representative in Congress,''.

(C) In section 8 (sec. 1–1001.08, D.C. Official Code)—

(i) in the heading, by striking ''Delegate'' and inserting ''Representative''; and

(ii) by striking ''Delegate,'' each place it appears in subsections (h)(1)(A), (i)(1), and (j)(1) and inserting ''Representative in Congress,''.

(D) In section 10 (sec. 1–1001.10, D.C. Official Code)—

(i) in subsection (a)(3)(A)—

(I) by striking ''or section 206(a) of the District of Columbia Delegate Act''; and

(II) by striking ''the office of Delegate to the House of Representatives'' and inserting ''the office of Representative in Congress'';

(ii) in subsection (d)(1), by striking ''Delegate,'' each place it appears; and

(iii) in subsection (d)(2)—

(I) by striking ''(A) In the event'' and all that follows through ''term of office,'' and inserting ''In the event that a vacancy occurs in the office of Representative in Congress before May 1 of the last year of the Representative's term of office,''; and

(II) by striking subparagraph (B).

(E) In section 11(a)(2) (sec. 1–1001.11(a)(2), D.C. Official Code), by striking ''Delegate to the House of Representatives,'' and inserting ''Representative in Congress,''.

(F) In section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking ''Delegate,'' and inserting ''Representative in Congress,''.

(G) In section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking ''the Delegate to Congress from the District of Columbia'' and inserting ''the Representative in Congress''.

(b) REPEAL OF OFFICE OF STATEHOOD REPRESENTATIVE.—

(1) IN GENERAL.—Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (sec. 1–123, D.C. Official Code) is amended as follows:

(A) By striking ''offices of Senator and Representative'' each place it appears in subsection (d) and inserting ''office of Senator''.

(B) In subsection (d)(2)—

(i) by striking ''a Representative or'';

(ii) by striking ''the Representative or''; and

(iii) by striking ''Representative shall be elected for a 2-year term and each''.

(C) In subsection (d)(3)(A), by striking ''and 1 United States Representative''.

(D) By striking ''Representative or'' each place it appears in subsections (e), (f), (g), and (h).

(E) By striking ''Representative's or'' each place it appears in subsections (g) and (h).

(2) CONFORMING AMENDMENTS.—

(A) STATEHOOD COMMISSION.—Section 6 of such Initiative (sec. 1–125, D.C. Official Code) is amended—

(i) in subsection (a)—

(I) by striking ''27 voting members'' and inserting ''26 voting members'';

(II) by adding ''and'' at the end of paragraph (5); and

(III) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6); and

(ii) in subsection (a–1)(1), by striking subparagraph (H).

(B) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Initiative (sec. 1–127, D.C. Official Code) is amended by striking ''and House''.

(C) APPLICATION OF HONORARIA LIMITATIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131, D.C. Official Code) is amended by striking ''or Representative'' each place it appears.

(D) APPLICATION OF CAMPAIGN FINANCE LAWS.—Section 3 of the Statehood Convention Procedural Amendments Act of 1982 (sec. 1–135, D.C. Official Code) is amended by striking ''and United States Representative''.

(E) DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended—

(i) in section 2(13) (sec. 1–1001.02(13), D.C. Official Code), by striking ''United States Senator and Representative,'' and inserting ''United States Senator,''; and

(ii) in section 10(d) (sec. 1–1001.10(d)(3), D.C. Official Code), by striking ''United States Representative or''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(c) CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO SERVICE ACADEMIES.—

(1) UNITED STATES MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(2) UNITED STATES NAVAL ACADEMY.—Such title is amended—

(A) in section 6954(a), by striking paragraph (5); and

(B) in section 6958(b), by striking ''the District of Columbia,''.

(3) UNITED STATES AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

SEC. 7. NONSEVERABILITY OF PROVISIONS AND NONAPPLICABILITY.

(a) NONSEVERABILITY.—If any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Act or any amendment made by this Act shall be treated and deemed invalid and shall have no force or effect of law.

(b) NONAPPLICABILITY.—Nothing in the Act shall be construed to affect the first reapportionment occurring after the regular decennial census conducted for 2010 if this Act has not taken effect.

SEC. 8. JUDICIAL REVIEW.

If any action is brought to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the District Court of the United States for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the District Court of the United States for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

EXECUTIVE SESSION

NOMINATION OF HILDA L. SOLIS TO BE SECRETARY OF LABOR

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session and the clerk will report the nomination.

The assistant legislative clerk read the nomination of HILDA L. SOLIS, of California, to be Secretary of Labor.

The PRESIDING OFFICER. The time on this nomination will be equally divided until 4:30 p.m. today.

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, the business before the Senate is now the nomination of President Obama's nominee as Secretary of Labor, U.S. Representative HILDA SOLIS.

My colleagues on the Senate HELP Committee worked together to move forward HILDA SOLIS's nomination. I have come to the floor today to urge the full Senate to join me in supporting her confirmation so we can fill this critically important Cabinet position as soon as possible.

Today, America's families are facing incredible challenges. They are struggling with record unemployment and a devastating economic crisis. They need and they deserve an advocate in the administration who is passionate about public service and committed to fighting for them. Representative SOLIS is that person. I want to share today a part of her HELP Committee testimony. If confirmed, HILDA SOLIS wrote that we have her solemn commitment to ''work hard every day to ensure that middle-class families do not lose hope.''

I thank Representative SOLIS for her willingness to answer President Obama's call to serve. She has been very responsive to the questions that were submitted to her by the HELP Committee. She has been a dedicated public servant, and she has an extensive public record of supporting working families. Moving forward on this nomination this afternoon will send a crucial message to working families that we understand their needs and that they are absolutely essential to our economic recovery efforts. We cannot afford to wait.

For anyone who is unfamiliar with her background, I would like to share with you a little bit about Representative SOLIS. She was born in California and grew up as one of seven children. Her mother was an immigrant from Nicaragua. Her father worked as a farmworker, a railroad worker, and a Teamsters shop steward in a battery recycling plant. He raised his family to understand that joining a union had helped them secure a place in America's middle class. Her parents stressed values such as education and hard work, public service and commitment to family.

Even though they could not afford to go to college themselves, her mother and father sacrificed to make sure their children would reach their full potential.

With the support of her family and the help of Pell grants and student loans, HILDA SOLIS became the first in her family to graduate from college. Her sisters followed in her footsteps. One earned a Ph.D. in public health and two others became engineers. Thanks to the values she grew up with, HILDA SOLIS always worked to give back to her community. She has served as the director of the California Student Opportunity and Access Program, and as a college trustee, because she wanted to ensure that other students